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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,391

09/14/2005

Shinya Adachi

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EXAMINER

BROADHEAD, BRIAN J

ART UNIT

PAPER NUMBER

3664

NOTIFICATION DATE

DELIVERY MODE

10/06/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patdocket@pearne.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/549,391	<b>Applicant(s)</b> ADACHI, SHINYA	
	<b>Examiner</b> BRIAN J. BROADHEAD	<b>Art Unit</b> 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11, 13-16, 18-23, 25 and 26 is/are rejected.
- 7) ☒ Claim(s) 8-10, 12, 17, 24 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9-14-05</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed on 9-14-05 does not fully comply with the requirements of 37 CFR 1.98(b) because: copies of foreign references have not been provided. Since the submission appears to be *bona fide*, applicant is given **ONE (1) MONTH** from the date of this notice to supply the above mentioned omissions or corrections in the information disclosure statement. NO EXTENSION OF THIS TIME LIMIT MAY BE GRANTED UNDER EITHER 37 CFR 1.136(a) OR (b). Failure to timely comply with this notice will result in the above mentioned information disclosure statement being placed in the application file with the noncomplying information **not** being considered. See 37 CFR 1.97(i).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 11, 13-16, and 26 are rejected under 35 U.S.C. 102(b) as being fully anticipated by Adachi, WO02/091587.

4. WO02/091587 is a prior international application of the current inventor and was published more than one year before the filing date of the current invention. The examiner has relied upon US2003/0093221 as a translation of the international application. Since this is the applicant's own work, the examiner sees it as unnecessary

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to point out where each limitation is provided for since application is familiar with the subject matter disclosed.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8, 18-23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adachi, WO02/091587.

7. Adachi set forth the limitations as stated above. Adachi does not disclose segment length is determined based on lateral G; the FCD collection apparatus instructs the FCD in-vehicle device to use an encoding method in which a deviation angle is used as the parameters when the FCD in-vehicle device is located in an urban area; the FCD collection apparatus instructs the FCD in-vehicle device to use an encoding method that uses, as the parameters, a difference value between a deviation angle and a deviation angle statistical prediction value when the FCD in-vehicle device is located in a mountainous area; that the FCD collection apparatus instructs the FCD in-vehicle device to use an encoding method that uses a deviation angle as the parameters when a past travel path of the FCD in-vehicle device is straight-lined; the FCD collection apparatus instructs the FCD in-vehicle device to use an encoding method that uses, as the parameters, a difference value between a deviation angle and a deviation angle statistical prediction value when a past travel path of the FCD in-

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vehicle device is curved-lined; the FCD collection apparatus instructs the FCD in-vehicle device to use an encoding method in which the resampling segment length is set shorter than normal when the FCD in-vehicle device is traveling in a road built-up area of an urban area; the FCD collection apparatus instructs an encoding method in which the resampling segment length is set longer than normal when the FCD in-vehicle device is traveling on an expressway or a major road. Adachi does teaches in paragraphs 270-276 of 2003/0093221 that using deviation angle or a deviation angle statistical prediction value should be determined based on the curviness of the road, and in paragraph 144 varying the sample distance based on curviness of the road. Mountainous, urban, straight, curved, and expressways have curve profiles that are known, or at the very least, instantly obvious to one of ordinary skill in the art. Official notice is given that lateral G is known to indicate curvature of a road. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the deviation angles, predicted deviation angles, and run lengths according to the road types of the claims because it would yield no unpredictable results. The claims just call for making generalizations about road shapes that are known and obvious.

### ***Double Patenting***

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

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1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1, 5, 11, 13, 14, and 26 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 9, 21, 22, 25, 29, 30, 33, 34, and 35 of U.S. Patent No. 6931319 in view of Adachi, WO02/091587.

10. The prior patent claims disclose all the limitations as set forth except for the statistically biased parameters. Adachi teaches using statistically biased parameters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings together because such modification would reduce the amount of data to be transmitted.

11. Claims 1, 5, 11, 13, 14, and 26 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 10, 11, 12, 13, 15, 26, 27, 30, 31, and 34, of U.S. Patent No. 7353108 in view of Adachi, WO02/091587.

12. The prior patent claims disclose all the limitations as set forth except for the statistically biased parameters. Adachi teaches using statistically biased parameters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings together because such modification would reduce the amount of data to be transmitted.

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13. Claims 1, 5, 11, 13, 14, and 26 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 73, 74, 76, and 77 of copending Application No. 11/133591 in view of Adachi, WO02/091587.

14. The prior patent claims disclose all the limitations as set forth except for the statistically biased parameters. Adachi teaches using statistically biased parameters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings together because such modification would reduce the amount of data to be transmitted.

15. This is a provisional obviousness-type double patenting rejection.

#### ***Allowable Subject Matter***

16. Claims 9, 10, 12, 17, 24, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

17. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose providing an identification flag for values apt to cause mismatching, or changing an instruction based on a type of FCD in-vehicle device.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN J. BROADHEAD whose telephone number is

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(571)272-6957. The examiner can normally be reached on Monday through Thursday or Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on 571-272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian J. Broadhead/  
Examiner, Art Unit 3664